



Reprinted
April 8, 2005

ENGROSSED SENATE BILL No. 480

DIGEST OF SB 480 (Updated April 7, 2005 9:25 pm - DI 75)

Citations Affected: IC 3-6; IC 3-7; IC 3-10; IC 3-11; IC 3-11.5; IC 3-11.7; IC 3-12; IC 5-4.

Synopsis: Election administration issues. Describes the circumstances under which a challenged voter must be provided a regular official ballot and the circumstances under which the voter must be given a provisional ballot. Requires the counting of a defective provisional ballot that is defective solely because of an act or a failure to act of an election officer unless fraud, tampering, or misconduct affecting the integrity of the ballot is demonstrated. Makes other changes relating to procedures for processing provisional ballots. Provides that personal service upon an individual in a state recount or contest proceeding is not required if the individual's attorney has filed an appearance with the election division and is provided with service. Makes the provision imposing the 1% requirement to determine the amount of the cash deposit needed for a recount consistent for both petitions and cross-petitions. Permits certain parties to a recount or contest to file a joint motion to dismiss before the completion of the recount or contest. Specifies that recounts and contests may be conducted and votes

(Continued next page)

Effective: Upon passage; July 1, 2005.

Landske, Lawson C
(HOUSE SPONSOR — RICHARDSON)

January 18, 2005, read first time and referred to Committee on Elections and Civic Affairs.
February 7, 2005, reported favorably — Do Pass.
February 14, 2005, read second time, ordered engrossed.
February 15, 2005, engrossed.
February 17, 2005, read third time, passed. Yeas 46, nays 3.

HOUSE ACTION

March 8, 2005, read first time and referred to Committee on Elections and Apportionment.
April 4, 2005, amended, reported — Do Pass.
April 7, 2005, read second time, amended, ordered engrossed.

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counted for an office only in a precinct within the election district for the office. Amends statutes relating to impoundment of records and equipment by order of the state recount commission. Provides that the state recount commission's authority, in case of fraud or misconduct, to order that none of the ballots cast in a precinct be counted applies to ballots cast by any voting method. Permits the election division to authorize county adoption of a proposed precinct establishment order submitted by a county if a voter of the county does not file an objection to the proposed order. Authorizes the secretary of state, as the state's chief election officer, to enter a polling place unless the secretary of state is a candidate for nomination or election to an office at the election. Eliminates the requirement that the governor and the lieutenant governor take the oath of office in the presence of both houses of the general assembly. Removes certain obsolete references. Repeals a provision stating that the law relating to the administrative complaint procedure under the Help America Vote Act applies after December 31, 2003.

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Reprinted
April 8, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 480

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 3-6-4.2-12 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. The election
3 division shall do the following:

4 ~~(1) Prepare and distribute paper ballots for the election or~~
5 ~~retention of persons to federal and state offices and for public~~
6 ~~questions in compliance with this title.~~

7 ~~(2) (1) Maintain complete and uniform descriptions and maps of~~
8 ~~all precincts in Indiana.~~

9 ~~(3) (2) Promptly update the information required by subdivision~~
10 ~~(2) (1) after each precinct establishment order is filed with the~~
11 ~~commission under IC 3-11-1.5.~~

12 ~~(4) (3) Issue media watcher cards under IC 3-6-10-6.~~

13 ~~(5) (4) Prepare and transfer to the department of state revenue~~
14 ~~voter registration affidavits for inclusion in state adjusted gross~~
15 ~~income tax booklets under IC 6-8.1-3-19.~~

16 ~~(6) After December 31, 2003, (5) Serve in accordance with 42~~
17 ~~U.S.C. 1973ff-1(b) as the office in Indiana responsible for~~

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providing information regarding voter registration procedures and absentee ballot procedures to absent uniformed services voters and overseas voters.

~~(7)~~ **(6)** As required by 42 U.S.C. 1973ff-1(c), submit a report to the federal Election Assistance Commission not later than ninety (90) days after each general election setting forth the combined number of absentee ballots:

(A) transmitted to absent uniformed services voters and overseas voters for the election; and

(B) returned by absent uniformed services voters and overseas voters and cast in the election.

~~(8)~~ **(7)** Implement the state plan in accordance with the requirements of HAVA (42 U.S.C. 15401 through 15406) and this title, and appoint members of the committee established under 42 U.S.C. 15405.

~~(9)~~ **(8)** Submit reports required under 42 U.S.C. 15408 to the federal Election Assistance Commission concerning the use of federal funds under Title II, Subtitle D, Part I of HAVA.

SECTION 2. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote **a regular official ballot**, unless the ~~circuit court clerk or board of county voter~~ registration office provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides.

(b) ~~A person whose name does not appear on the registration record may~~ **If a person who is provided with a certificate of error under this section is then challenged under IC 3-10-1 or IC 3-11-8, the person must cast a provisional ballot as provided in IC 3-11.7: instead of a regular official ballot. The person may proceed to cast the provisional ballot after executing the affidavit required under IC 3-10-1 or IC 3-11-8.**

SECTION 3. IC 3-7-48-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7.5. **If a voter makes an oral or written affirmation under section 5 or 7 of this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.**



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SECTION 4. IC 3-10-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) This subsection applies before January 1, 2004. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record or on the certified copy of the registration record in a county with a computerized registration system may vote if the circuit court clerk or board of registration provides a signed certificate of error under IC 3-7-48 showing that the person is a registered voter of the precinct.

(b) This subsection applies after December 31, 2003. A person who will be a voter at the general election for which the primary is being held and whose name does not appear on the registration record of the precinct or on the certified copy of the registration record prepared under IC 3-7-29 may

(1) vote a regular official ballot if the county voter registration office provides a signed certificate of error or in accordance with IC 3-7-48, showing that the voter is registered in the precinct where the voter resides and offers to vote, produces an affidavit executed under IC 3-10-11 if the voter executed an affidavit under that chapter, or makes an oral or written affirmation under IC 3-10-12. However, if the voter is then challenged under section 10.5 of this chapter, the voter must (2) cast a provisional ballot under IC 3-11-7, as provided by 42 U.S.C. 15482 instead of a regular official ballot if the voter wishes to cast a ballot.

SECTION 5. IC 3-10-1-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10.5. (a) This section applies after December 31, 2003.

(b) (a) This section does not apply to a voter who is challenged under section 10 of this chapter on the basis of party affiliation.

(c) (b) In accordance with 42 U.S.C. 15482, a voter challenged under this chapter is entitled to must cast a provisional ballot under IC 3-11-7 instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot after executing the affidavit under section 9 of this chapter.

SECTION 6. IC 3-10-1-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.5. (a) This section does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) furnished with a list certified under IC 3-7-29; and
- (2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the

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comparison of signatures under this section.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot, unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.**

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. **If the poll clerk executes a challenger's affidavit under this section, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 10.5 of this chapter.**

(d) If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21, ~~or if the voter executes a challenged voter's affidavit under IC 3-11-8-22;~~ the voter may then vote **a regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(d)~~ (e) This section expires January 1, 2006.

SECTION 7. IC 3-10-1-24.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.6. (a) This section applies after December 31, 2005.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.**

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. **If the poll clerk executes a challenger's affidavit under this section, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 10.5 of this chapter.**

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(d) If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21, or if the voter executes a challenged voter's affidavit under ~~IC 3-11-8-22~~, the voter may then vote a regular official ballot unless the voter was challenged under this chapter before signing the poll list.

SECTION 8. IC 3-10-10-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If a voter executes an affidavit under this chapter and is then challenged under IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.

SECTION 9. IC 3-10-11-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.5. If a voter executes an affidavit under this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.

SECTION 10. IC 3-10-12-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. If a voter makes an oral or written affirmation under this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The oral or written affirmation made under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.

SECTION 11. IC 3-11-1.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) If the ~~co-directors or designated employee election division~~ determines that the proposed precinct establishment order would comply with this chapter, the ~~co-directors shall advise the county executive that the~~ ~~co-directors will recommend that the commission approve the proposed~~ ~~order based on the order's compliance~~ ~~election division shall issue an~~ order authorizing the county executive to establish the proposed precincts.

(b) The order issued by the election division under subsection (a) must state that the election division finds that the proposed precincts would comply with the standards set forth in this chapter.

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The election division shall promptly provide a copy of the order to the county executive.

(c) The county executive must give notice of the proposed order to the voters of the county by one (1) publication under IC 5-3-1-4. The notice must state the following:

(1) The name of each existing precinct whose boundaries would be changed by the adoption of the proposed order by the county.

(2) That any registered voter of the county may object to the proposed order by filing a sworn statement with the election division setting forth the voter's specific objections to the proposed order and requesting that a hearing be conducted by the commission under IC 4-21.5.

(3) The mailing address of the election division.

(4) The deadline for filing the objection with the election division under this section.

(d) An objection to a proposed precinct establishment order must be filed not later than noon ten (10) days after the publication of the notice by the county executive.

(e) If an objection is not filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may proceed immediately to adopt the proposed order.

(f) If an objection is filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may not adopt the proposed order until the commission conducts a hearing under IC 4-21.5 and determines whether the proposed precincts would comply with the standards set forth in this chapter.

SECTION 12. IC 3-11-1.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. When a county executive receives a proposed order approved by:

(1) the election division; or

(2) the commission under section 18(f) of this chapter, the county executive may issue the order.

SECTION 13. IC 3-11-1.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. Not later than fourteen (14) days following notice of final approval of a precinct establishment order by the commission under section 18(f) of this chapter, the county executive shall give notice of the approval by one (1) publication under IC 5-3-1-4.

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SECTION 14. IC 3-11-1.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. **(a) This section applies to a proposed precinct establishment order that requires that a hearing by the commission be conducted under this chapter.**

(b) After the ~~co-directors~~ **have election division** has reviewed the proposed precinct establishment order, and the order has been revised, if necessary, to comply with this chapter, the commission shall:

(1) approve a proposed precinct establishment order under this section ~~no~~ **not** later than the following January 31; and

(2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held.

SECTION 15. IC 3-11-8-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) When the hour for closing the polls occurs, the precinct election board shall permit all voters who:

(1) have passed the challengers and who are waiting to announce their names to the poll clerks for the purpose of signing the poll list;

(2) have signed the poll list but who have not voted; or

(3) are in the act of voting;

to vote. In addition, the inspector shall require all voters who have not yet passed the challengers to line up in single file within the chute. The poll clerks shall record the names of the voters in the chute, and these voters may vote unless otherwise prevented according to law.

(b) This subsection applies

~~(1) after December 31, 2003; and~~

~~(2) if a court order (or other order) has been issued to extend the hours that the polls are open under section 8 of this chapter.~~

As provided in 42 U.S.C. 15482, the inspector shall identify the voters who would not otherwise be eligible to vote after the closing of the polls under subsection (a) and shall provide a provisional ballot to the ~~voter~~ **voters** in accordance with IC 3-11.7.

SECTION 16. IC 3-11-8-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

(1) Members of a precinct election board.

(2) Poll clerks and assistant poll clerks.

(3) Election sheriffs.

(4) Deputy election commissioners.

(5) Pollbook holders.

(6) Watchers.

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(7) Voters for the purposes of voting.

(8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29.

(9) An assistant to a precinct election officer appointed under IC 3-6-6-39.

(10) An individual authorized to assist a voter in accordance with IC 3-11-9.

(11) A member of a county election board, acting on behalf of the board.

(12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).

(13) Either of the following who have been issued credentials signed by the members of the county election board:

(A) The county chairman of a political party.

(B) The county vice chairman of a political party.

(14) The secretary of state, as chief election officer of the state, unless the individual serving as secretary of state is a candidate for nomination or election to an office at the election.

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place.

SECTION 17. IC 3-11-8-22.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 22.1. (a) This subsection applies to a voter:**

(1) whose name does not appear on the poll list for the precinct; and

(2) who produces a certificate of error issued under IC 3-7-48-1.

If the voter is not challenged under IC 3-10-1 or this chapter, the voter must be provided with a regular official ballot. However, as provided by IC 3-7-48-1(b), if the voter is challenged under IC 3-10-1 or this chapter, the voter must cast a provisional ballot after complying with IC 3-7-48-1(b) if the voter wishes to cast a

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1 ballot.

2 (b) This subsection applies to a voter:

3 (1) whose name does not appear on the poll list for the
4 precinct; and

5 (2) who makes an oral or a written affirmation in compliance
6 with IC 3-7-48-5 that the voter and continues to reside in the
7 precinct at the address shown as the voter's former residence
8 in the voter registration record.

9 If the voter is not challenged under IC 3-10-1 or this chapter, the
10 voter must be provided with a regular official ballot. However, as
11 provided by IC 3-7-48-7.5, if the voter is challenged under
12 IC 3-10-1 or this chapter, the voter must cast a provisional ballot
13 after complying with IC 3-7-48-7.5 if the voter wishes to cast a
14 ballot.

15 (c) This subsection applies to a voter:

16 (1) whose name does not appear on the poll list for the
17 precinct; and

18 (2) who produces a registration receipt that complies with
19 IC 3-7-48-7.

20 If the county election board provides the precinct election board
21 with the information required under IC 3-7-48-7(2), and the voter
22 is not challenged under IC 3-10-1 or this chapter, the voter must be
23 provided with a regular official ballot. However, as provided by
24 IC 3-7-48-7.5, if the voter is challenged under IC 3-10-1 or this
25 chapter, the voter must cast a provisional ballot after complying
26 with IC 3-7-48-7.5 if the voter wishes to cast a ballot.

27 (d) This subsection applies to a voter:

28 (1) whose name does not appear on the poll list for the
29 precinct;

30 (2) who is not described by subsection (a), (b), or (c).

31 After the voter is challenged under IC 3-10-1 or this chapter, the
32 voter shall be provided with a provisional ballot under IC 3-11.7
33 instead of a regular official ballot if the voter wishes to cast a
34 ballot. The voter may proceed to cast a provisional ballot after
35 executing a challenged voter's affidavit under section 22 of this
36 chapter if the voter wishes to cast a ballot.

37 (e) This subsection applies to a voter:

38 (1) whose name appears on the poll list for the precinct; and

39 (2) who no longer resides in the precinct, but is entitled to vote
40 at the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.

41 If the voter executes an affidavit in compliance with IC 3-10-10,
42 IC 3-10-11, or IC 3-10-12, and the voter is not challenged under

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1 IC 3-10-1 or this chapter, the voter must be provided with a
 2 regular official ballot. However, as provided by IC 3-10-10-9,
 3 IC 3-10-11-4.5, or IC 3-10-12-5, if the voter is challenged under
 4 IC 3-10-1 or this chapter, the voter must cast a provisional ballot
 5 if the voter wishes to cast a ballot.

6 (f) This subsection applies to a voter:

7 (1) whose name appears on the poll list for the precinct;

8 (2) who is not described in subsection (e).

9 If the voter is challenged under IC 3-10-1 or this chapter, the voter
 10 shall be provided with a provisional ballot under IC 3-11.7 instead
 11 of a regular official ballot if the voter wishes to cast a vote. The
 12 voter may proceed to cast a provisional ballot after executing a
 13 challenged voter's affidavit under section 22 of this chapter if the
 14 voter wishes to cast a ballot.

15 SECTION 18. IC 3-11-8-23 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23. (a) As
 17 provided by IC 3-7-48-7.5, IC 3-10-10-9, IC 3-10-11-4.5, and
 18 IC 3-10-12-5, if a challenged voter has already made an affirmation
 19 or executed an affidavit under any of those sections, the challenged
 20 voter is not required to execute an additional affidavit under this
 21 section.

22 (b) The affidavit of a challenged voter required by section 22 of this
 23 chapter must be sworn and affirmed and must contain the following:

24 (1) A statement that the voter is a citizen of the United States.

25 (2) The voter's date of birth to the best of the voter's information
 26 and belief.

27 (3) A statement that the voter has been a resident of the precinct
 28 for thirty (30) days immediately before this election or is qualified
 29 to vote in the precinct under IC 3-10-10, IC 3-10-11, or
 30 IC 3-10-12.

31 (4) The voter's name and a statement that the voter is generally
 32 known by that name.

33 (5) A statement that the voter has not voted and will not vote in
 34 any other precinct in this election.

35 (6) The voter's occupation.

36 (7) The voter's current residential address, including the street or
 37 number and if applicable, the voter's residential address thirty
 38 (30) days before the election, and the date the voter moved.

39 (8) A statement that the voter understands that making a false
 40 statement on the affidavit is punishable under the penalties of
 41 perjury.

42 (9) ~~After December 31, 2003,~~ If the individual's name does not

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appear on the registration list, ~~and the individual is not entitled to~~
~~vote under IC 3-7-48-1, IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10,~~
~~IC 3-10-11-2, or IC 3-10-12;~~ a statement that the individual
 registered to vote and where the individual believes the individual
 registered to vote during the registration period described by:

(A) IC 3-7-13-10; or

(B) IC 3-7-36-11, if the voter registered under that section.

SECTION 19. IC 3-11-8-23.5 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 23.5. ~~(a) This~~
~~section applies after December 31, 2003.~~

~~(b)~~ In accordance with 42 U.S.C. 15482, a voter challenged under
 section 21 of this chapter is entitled to cast a provisional ballot ~~under~~
~~IC 3-11-7~~ **instead of a regular official ballot if the voter wishes to**
cast a ballot. The voter may proceed to cast a provisional ballot
 after executing the affidavit under section 23 of this chapter.

SECTION 20. IC 3-11-8-25, AS AMENDED BY SEA 483-2005,
 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2005]: Sec. 25. (a) Except as provided in subsection (e), a
 voter who desires to vote an official ballot at an election shall provide
 proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds
 to vote in the election, a member of the precinct election board shall
 ask the voter to provide proof of identification. The voter shall produce
 the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of
 identification; or

(2) a member of the precinct election board determines that the
 proof of identification provided by the voter does not qualify as
 proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as
 prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section
 22 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is
 located at a state licensed care facility where the voter resides is not
 required to provide proof of identification before voting in an election.

(f) After a voter has passed the challengers or has been sworn in, the
 voter shall be instructed by a member of the precinct election board to
 proceed to the location where the poll clerks are stationed. The voter

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1 shall announce the voter's name to the poll clerks or assistant poll
 2 clerks. A poll clerk, an assistant poll clerk, or a member of the precinct
 3 election board shall require the voter to write the following on the poll
 4 list:

5 (1) The voter's name.

6 (2) The voter's current residence address.

7 (g) The poll clerk, an assistant poll clerk, or a member of the
 8 precinct election board shall:

9 (1) ask the voter to provide the voter's voter identification
 10 number;

11 (2) tell the voter the number the voter may use as a voter
 12 identification number; and

13 (3) explain to the voter that the voter is not required to provide a
 14 voter identification number at the polls.

15 (h) The poll clerk or assistant poll clerk shall examine the list
 16 provided under IC 3-7-29-1 or IC 3-11-3-18 to determine if the county
 17 election board has indicated that the voter is required to provide
 18 additional personal identification under 42 U.S.C. 15483 and
 19 IC 3-7-33-4.5 before voting in person. If the list (or a certification
 20 concerning absentee voters under IC 3-11-10-12) indicates that the
 21 voter is required to present this identification before voting in person,
 22 the poll clerk shall advise the voter that the voter must present, in
 23 addition to the proof of identification required under subsection (b), a
 24 piece of identification described in subsection (i) to the poll clerk.

25 (i) As required by 42 U.S.C. 15483, in addition to the proof of
 26 identification required under subsection (b), a voter described by
 27 IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before
 28 appearing at the polls on election day must present one (1) of the
 29 following documents to the poll clerk:

30 (1) a current and valid photo identification; or

31 (2) a current utility bill, bank statement, government check,
 32 paycheck, or government document that shows the name and
 33 address of the voter.

34 (j) If a voter presents a document under subsection (i), the poll clerk
 35 shall add a notation to the list indicating the type of document
 36 presented by the voter. The election division shall prescribe a
 37 standardized coding system to classify documents presented under this
 38 subsection for entry into the county voter registration system.

39 (k) If a voter required to present documentation under subsection (i)
 40 is unable to present the documentation to the poll clerk while present
 41 in the polls, the poll clerk shall notify the precinct election board. The
 42 board shall provide a provisional ballot to the voter under IC 3-11-7-2.

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(l) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

(m) This subsection does not apply to a precinct in a county with a computerized registration system whose inspector was:

(1) furnished with a list certified under IC 3-7-29; and

(2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot unless the voter is challenged by a poll clerk under this section or has been previously challenged under this chapter.** If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(n) If, in a precinct governed by subsection (m), the poll clerk executes a challenger's affidavit, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 22 of this chapter.

~~(n)~~ (o) If, in a precinct governed by subsection (m),

~~(1)~~ the poll clerk does not execute a challenger's affidavit, or

~~(2)~~ the voter executes a challenged voter's affidavit under section 22 of this chapter or had executed the affidavit before signing the poll list;

the voter may then vote **a regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(o)~~ (p) This section expires January 1, 2006.

SECTION 21. IC 3-11-8-25.1, AS AMENDED BY SEA 483-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.1. (a) This section applies after December 31, 2005.

(b) Except as provided in subsection (f), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(c) Except as provided in subsection (f), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce

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the proof of identification before being permitted to sign the poll list.

(d) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(e) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(f) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(g) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

(1) The voter's name.

(2) Except as provided in subsection ~~(f)~~ (m), the voter's current residence address.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

(1) ask the voter to provide or update the voter's voter identification number;

(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(i) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

(j) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote a **regular official ballot**

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1 **unless the voter is challenged by a poll clerk under this section or**
 2 **was challenged under this chapter before signing the poll list.** If
 3 either poll clerk doubts the voter's identity following comparison of the
 4 signatures, the poll clerk shall challenge the voter in the manner
 5 prescribed by section 21 of this chapter.

6 **(k) If, in a precinct governed by subsection (h), the poll clerk**
 7 **executes a challenger's affidavit, then the voter must be provided**
 8 **with a provisional ballot instead of a regular official ballot if the**
 9 **voter wishes to cast a vote. The voter may proceed to cast a**
 10 **provisional ballot after executing a challenged voter's affidavit**
 11 **under section 22 of this chapter.**

12 ~~(k)~~ (l) If, in a precinct governed by subsection (h):

13 ~~(1)~~ the poll clerk does not execute a challenger's affidavit or

14 ~~(2)~~ the voter executes a challenged voter's affidavit under section
 15 22 of this chapter or executed the affidavit before signing the poll
 16 list;

17 the voter may then vote **a regular official ballot unless the voter was**
 18 **challenged under this chapter before signing the poll list.**

19 ~~(l)~~ (m) Each line on a poll list sheet provided to take a voter's
 20 current address must include a box under the heading "Address
 21 Unchanged" so that a voter whose residence address shown on the poll
 22 list is the voter's current residence address may check the box instead
 23 of writing the voter's current residence address on the poll list.

24 SECTION 22. IC 3-11-8-27.5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27.5. ~~(a)~~ This
 26 section applies after December 31, 2003.

27 ~~(b)~~ In accordance with 42 U.S.C. 15482, a voter challenged under
 28 section 27 of this chapter ~~is entitled to must~~ cast a provisional ballot
 29 under IC 3-11-7 **instead of a regular official ballot if the voter**
 30 **wishes to cast a ballot. The voter may then proceed to cast a**
 31 **provisional ballot** after executing the affidavit under section 23 of this
 32 chapter.

33 SECTION 23. IC 3-11-10-4.5 IS AMENDED TO READ AS
 34 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.5. ~~(a)~~ This
 35 section applies after December 31, 2003.

36 ~~(b)~~ (a) Upon receipt of an absentee ballot from a voter required to
 37 provide additional information to the county voter registration office
 38 under IC 3-7-33-4.5, the county election board shall contact the county
 39 voter registration office to determine if the additional information has
 40 been filed with the office by the voter.

41 ~~(c)~~ (b) If the voter has filed the information with the county voter
 42 registration office, the county election board shall add a notation to the

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1 application indicating that the required information has been filed and
 2 that the absentee ballot may be counted if the ballot otherwise complies
 3 with this article.

4 ~~(d)~~ **(c)** If the voter has not filed the information with the county
 5 voter registration office, the county election board shall add a notation
 6 on the application filed by a voter described under ~~subsection (c)~~
 7 **subsection (b)** and on the envelope provided under this chapter reading
 8 substantially as follows:

9 "INSPECTOR: AS OF (insert date absentee ballot application
 10 approved) THIS VOTER WAS REQUIRED TO FILE
 11 ADDITIONAL DOCUMENTATION WITH THE COUNTY
 12 VOTER REGISTRATION OFFICE BEFORE THIS BALLOT
 13 MAY BE COUNTED. CHECK THE POLL LIST AND
 14 COUNTY ELECTION BOARD CERTIFICATION TO SEE IF
 15 THE VOTER HAS FILED THIS INFORMATION. IF NOT,
 16 PROCESS AS A PROVISIONAL BALLOT IF THIS BALLOT
 17 OTHERWISE COMPLIES WITH INDIANA LAW.".

18 SECTION 24. IC 3-11-10-11 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 11. (a) On election
 20 day each circuit court clerk (or an agent of the clerk) shall visit the
 21 appropriate post office to accept delivery of absentee envelopes at the
 22 latest possible time that will permit delivery of the ballots to the
 23 appropriate precinct election boards before 6 p.m.

24 (b) ~~This subsection applies after December 31, 2003.~~ Not later than
 25 noon on election day, the county voter registration office shall visit the
 26 appropriate post office to accept delivery of mail containing
 27 documentation submitted by a voter to comply with IC 3-7-33-4.5. The
 28 office shall immediately notify the county election board regarding the
 29 filing of this documentation to permit the board to provide certification
 30 of this filing to the appropriate precinct election boards before 6 p.m.

31 SECTION 25. IC 3-11-10-12 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Each county
 33 election board shall have all absentee ballots delivered to the precinct
 34 election boards at their respective polls on election day.

35 (b) The absentee ballots shall be delivered during the hours that the
 36 polls are open and in sufficient time to enable the precinct election
 37 boards to vote the ballots during the time the polls are open.

38 (c) ~~This subsection applies after December 31, 2003.~~ Along with the
 39 absentee ballots delivered to the precinct election boards under
 40 subsection (a), each county election board shall provide a list certified
 41 by the circuit court clerk. This list must state the name of each voter
 42 subject to IC 3-7-33-4.5 who:

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(1) filed the documentation required by IC 3-7-33-4.5 with the county voter registration office after the printing of the certified list under IC 3-7-29 or the poll list under IC 3-11-3-18; and

(2) as a result, is entitled to have the voter's absentee ballot counted if the ballot otherwise complies with this title.

(d) ~~This subsection applies after December 31, 2003.~~ If the county election board is notified not later than 3 p.m. on election day by the county voter registration office that a voter subject to IC 3-7-33-4.5 and not identified in the list certified under subsection (c) has filed documentation with the office that complies with IC 3-7-33-4.5, the county election board shall transmit a supplemental certified list to the appropriate precinct election board. If the board determines that the supplemental list may not be received before the closing of the polls, the board shall:

(1) attempt to contact the precinct election board to inform the board regarding the content of the supplemental list; and

(2) file a copy of the supplemental list for that precinct as part of the permanent records of the board.

(e) This subsection applies to a special write-in absentee ballot described in:

(1) 42 U.S.C. 1973ff for federal offices; and

(2) IC 3-11-4-12(d) for state offices.

If the county election board receives both a special write-in absentee ballot and the regular absentee ballot described by IC 3-11-4-12 from the same voter, the county election board shall reject the special write-in ballot and deliver only the regular absentee ballot to the precinct election board.

SECTION 26. IC 3-11-10-16.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16.5. ~~(a) This section applies after December 31, 2003.~~

~~(b)~~ If the inspector finds under section 16(a) of this chapter that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under section 16(a) of this chapter apply, the inspector shall direct that the absentee ballot be processed as a provisional ballot under IC 3-11.7.

SECTION 27. IC 3-11-10-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) A voter voting before an absentee voter board shall mark the voter's ballot in the presence of the board, but not in such a manner that either of the members of the board can see for whom the voter voted, unless the voter requests the help of the board in marking a ballot under

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1 IC 3-11-9.

2 (b) The voter shall then, in the presence of the board, place the
3 ballot in an envelope furnished by the county election board.

4 (c) The circuit court clerk shall provide, to the extent practicable,
5 the same degree of privacy to absentee voters voting at the office of the
6 circuit court clerk as provided to voters at the polls on election day.

7 (d) This subsection applies to a voter required to present additional
8 information under IC 3-7-33-4.5. If the voter does not present the
9 required additional information before receiving the absentee ballot,
10 the absentee ballot shall be processed in accordance with ~~section 4.5(d)~~
11 **section 4.5(c)** of this chapter.

12 (e) Upon accepting the completed absentee ballot from the voter, the
13 board shall provide the voter with a notice:

- 14 (1) listing the documentation the voter may submit to the county
15 voter registration office to comply with IC 3-7-33-4.5; and
16 (2) stating the address and hours of the county voter registration
17 office.

18 SECTION 28. IC 3-11-10-35 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 35. (a) ~~After~~
20 ~~December 31, 2003~~, This section does not apply to an absentee ballot
21 required to be treated as a provisional ballot under IC 3-11.7.

22 (b) If an envelope containing an absentee ballot has not been opened
23 before the close of the polls, then the envelope may not be opened
24 without an order of a court.

25 SECTION 29. IC 3-11.5-4-12 IS AMENDED TO READ AS
26 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) If the
27 absentee ballot counters find under section 11 of this chapter that:

- 28 (1) the affidavit is properly executed;
29 (2) the signatures correspond;
30 (3) the absentee voter is a qualified voter of the precinct;
31 (4) the absentee voter is registered and ~~after December 31, 2003~~,
32 is not required to file additional information with the county voter
33 registration office under IC 3-7-33-4.5;
34 (5) the absentee voter has not voted in person at the election; and
35 (6) in case of a primary election, if the absentee voter has not
36 previously voted, the absentee voter has executed the proper
37 declaration relative to age and qualifications and the political
38 party with which the absentee voter intends to affiliate;

39 the absentee ballot counters shall open the envelope containing the
40 absentee ballots so as not to deface or destroy the affidavit and take out
41 each ballot enclosed without unfolding or permitting a ballot to be
42 unfolded or examined.

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(b) ~~This subsection applies after December 31, 2003.~~ If the absentee ballot counters find under subsection (a) that the voter has not filed the additional information required to be filed with the county voter registration office under IC 3-7-33-4.5, but that all of the other findings listed under subsection (a) apply, the absentee ballot shall be processed as a provisional ballot under IC 3-11.7.

(c) The absentee ballot counters shall then deposit the ballots in a secure envelope with the name of the precinct set forth on the outside of the envelope. After the absentee ballot counters or the county election board has made the findings described in subsection (a) or section 13 of this chapter for all absentee ballots of the precinct, the absentee ballot counters shall remove all the ballots deposited in the envelope under this section for counting under IC 3-11.5-5 or IC 3-11.5-6.

SECTION 30. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. In all other respects, the challenge procedure is the same as though the ballot was cast by the voter in person.

(b) If a proper affidavit by a qualified person in the form required by ~~IC 3-11-8-22~~ **IC 3-11-8-22.1** is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

(c) The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

SECTION 31. IC 3-11.7-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) As provided by 42 U.S.C. 15482, this section applies to the following individuals:

(1) An individual:

- (A) whose name does not appear on the registration list; and
- (B) who is ~~not permitted to vote~~ **challenged under IC 3-10-1 or IC 3-11-8 after the voter makes an oral or a written affirmation under IC 3-7-48-5 or IC 3-7-48-7, or after the voter produces a certificate of error under IC 3-7-48-1.** ~~IC 3-7-48-5, IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12.~~

(2) An individual described by IC 3-10-1-10.5, IC 3-11-8-23.5, or

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1 IC 3-11-8-27.5 who is challenged as not eligible to vote.

2 (3) An individual who seeks to vote in an election as a result of a
3 court order (or any other order) extending the time established for
4 closing the polls under IC 3-11-8-8.

5 (b) ~~This subsection applies after December 31, 2003.~~ As required
6 by 42 U.S.C. 15483, a voter who has registered to vote but has not:

7 (1) presented identification required under 42 U.S.C. 15483 to the
8 poll clerk before voting in person under IC 3-11-8-25; or

9 (2) filed a copy of the identification required under 42 U.S.C.
10 15483 to the county voter registration office before the voter's
11 absentee ballot is cast;

12 is entitled to vote a provisional ballot under this article.

13 (c) A precinct election officer shall inform an individual described
14 by subsection (a)(1) or (a)(2) that the individual ~~may~~ **must** cast a
15 provisional ballot **instead of a regular official ballot** if the individual
16 **wishes to cast a ballot. The individual may then proceed to cast a**
17 **provisional ballot if the individual:**

18 (1) is eligible to vote under IC 3-7-13-1;

19 (2) submitted a voter registration application during the
20 registration period described by IC 3-7-13-10 (or IC 3-7-36-11, if
21 the voter registered under that section); and

22 (3) executes an affidavit described in IC 3-10-1-9 or IC 3-11-8-23.

23 (d) A precinct election officer shall inform an individual described
24 by subsection (a)(3) that the individual ~~may~~ **must** cast a provisional
25 ballot **instead of a regular official ballot if the individual wishes to**
26 **cast a ballot.**

27 SECTION 32. IC 3-11.7-5-1.5 IS ADDED TO THE INDIANA
28 CODE AS A NEW SECTION TO READ AS FOLLOWS
29 [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. A provisional ballot that has**
30 **been marked and cast by a voter in compliance with this title but**
31 **may not otherwise be counted solely as the result of the act or**
32 **failure to act of an election officer shall nevertheless be counted**
33 **unless evidence of fraud, tampering, or misconduct affecting the**
34 **integrity of the ballot is demonstrated. The act or failure to act by**
35 **an election officer is not by itself evidence of fraud, tampering, or**
36 **misconduct affecting the integrity of the ballot.**

37 SECTION 33. IC 3-11.7-5-10 IS AMENDED TO READ AS
38 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If the counters
39 cannot agree whether to count a ballot following a protest under section
40 9 of this chapter, the question shall be referred to the county election
41 board for a decision.

42 (b) **If both counters agree whether or not to count a ballot**

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(either before or after a protest under section 9 of this chapter), the recommendation of the counting team shall be referred to the county election board. The county election board shall make the board's decision whether to count or not count the ballot in accordance with this title.

SECTION 34. IC 3-12-11-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) Upon the filing of a petition for a recount or contest with the election division, the secretary of state shall issue a notice of the filing and pendency of the petition to each opposing candidate and deliver the notice to the state police department.

(b) This subsection applies if an attorney has filed an appearance with the election division as the representative of a candidate. The state police shall serve the notice on the attorney for the candidate.

(c) If subsection (b) does not apply, the state police department shall immediately serve the notice upon each opposing candidate in person or by leaving a copy at the last and usual place of residence.

(d) The state police department shall make immediate return of the service under this section.

SECTION 35. IC 3-12-11-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) This section applies if a cross-petition is filed under this chapter.

(b) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is not more than one percent (1%) of the total votes cast for all candidates for the nomination or office.

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(c) This subsection applies only to a recount of an election for nomination or election to either of the following:

(1) A legislative office in which, on the face of the election

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returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

(2) An office other than a legislative office in which, on the face of the election returns, the difference between the number of votes cast for the cross-petitioner and the petitioner with the greatest number of votes is more than one percent (1%) **of the total votes cast for all candidates for the nomination or office.**

The cross-petitioner shall furnish a cash deposit equal to ten dollars (\$10) multiplied by the number of precincts that the cross-petitioner seeks to have recounted for the first ten (10) precincts recounted. For each precinct in excess of ten (10) the cross-petitioner seeks to have recounted, the cross-petitioner shall furnish an additional cash deposit equal to one hundred dollars (\$100) multiplied by the number of precincts in excess of ten (10) that the cross-petitioner seeks to have recounted. The cash deposit shall be deposited in the state recount fund.

(d) If after a recount, it is determined that the cross-petitioner has been nominated or elected, the deposit furnished by the cross-petitioner shall be returned to the cross-petitioner in full.

(e) Any unexpended balance remaining in a deposit after payment of the costs of the recount shall be deposited in the state recount fund.

SECTION 36. IC 3-12-11-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as provided in subsection (d) **or (e)**, the state recount commission shall grant the petitions and cross-petitions that have been filed and order the recount of the votes in the precincts upon:

- (1) the filing of a petition and cash deposit or bond under this chapter;
- (2) the expiration of the period under section 4 of this chapter for filing a cross-petition; and
- (3) proof of service of all notices.

(b) Except as provided in subsection (d), whenever a petition filed under section 2 of this chapter requests a recount in all precincts in the election district, the state recount commission may order a recount in the precincts upon:

- (1) the filing of a cash deposit or bond under this chapter; and
- (2) proof of service of all notices.

(c) Except as provided in subsection (d), the state recount commission shall grant a petition for a contest that has been filed and order a contest proceeding upon:

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(1) the filing of a petition under this chapter; and

(2) proof of service of all notices.

(d) Whenever a motion to dismiss a petition or cross-petition for a recount or a petition for a contest is filed with the state recount commission or is made by a member of the commission, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or a contest. The motion to dismiss must:

(1) state that the petitioner or cross-petitioner has failed to comply with this chapter; and

(2) specifically identify the requirement that the petitioner or cross-petitioner has failed to comply with.

(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or contest.

SECTION 37. IC 3-12-11-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. If there is a consolidation of petitions and cross-petitions, the state recount commission shall by consolidated order grant the consolidated petitions and cross-petitions and order a consolidated recount of all votes in each precinct in the ~~county~~ **election district for the office** requested in the petitions and cross-petitions.

SECTION 38. IC 3-12-11-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. The state recount commission shall conduct a recount in each precinct designated in a petition or cross-petition granted under this chapter **that is in the election district for the office.** The commission may conduct a recount in any precinct that cast votes for an office that is the subject of a recount under this chapter **if the precinct is within the election district for the office.**

SECTION 39. IC 3-12-11-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) Except as provided in subsection (b), the state recount commission may by order impound and provide for the protection of ~~the following~~:

(1) ~~All ballots, voting machines, and electronic voting systems used at the election for casting votes in the precincts.~~

(2) ~~All tally sheets relating to the votes cast for the office.~~

(3) ~~All poll lists of persons registered by the poll clerks as having voted for the office.~~

any election records or equipment described by IC 3-12-10-5(a).

(b) In a recount of an election for a legislative office, the state recount commission shall by order impound and provide for the

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1 protection of the following:

2 (1) All ballots, voting machines, and electronic voting systems
3 used at the election for casting votes in all of the precincts within
4 the legislative district.

5 (2) All tally sheets relating to the votes cast for the office.

6 (3) All poll lists of persons registered by the poll clerks as having
7 voted for the office.

8 SECTION 40. IC 3-12-11-17.7 IS AMENDED TO READ AS
9 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17.7. **(a) This section
10 applies to ballots cast by any voting method.**

11 ~~(a)~~ **(b)** Unless the state recount commission makes a finding under
12 ~~subsection (b);~~ **subsection (c)**, the commission shall:

13 (1) count ballots in accordance with this article; and

14 (2) not order that all ballots in a precinct not be counted.

15 ~~(b)~~ **(c)** If:

16 (1) a party to the recount presents evidence of fraud, tampering,
17 or misconduct affecting the integrity of the ballot within a
18 precinct; and

19 (2) the commission determines that the fraud, tampering, or
20 misconduct within that precinct was so pervasive that it is
21 impossible for the commission to determine the approximate
22 number of votes that each candidate received in that precinct;

23 the commission may order that none of the ballots from that precinct
24 be counted.

25 SECTION 41. IC 5-4-1-3 IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2005]: Sec. 3. **(a)** Members of the general
27 assembly shall take ~~such the~~ **oath described by section 1 of this**
28 **chapter** before taking their seats. ~~which~~ **The oath** shall be entered on
29 the journals. ~~and~~

30 **(b)** The governor and lieutenant-governor shall each take ~~such the~~
31 **oath in presence of both houses of the general assembly in convention,**
32 **and described by section 1 of this chapter.** The ~~same~~ **oath** shall be
33 entered on the journals ~~thereof:~~ **of each chamber of the general**
34 **assembly.**

35 SECTION 42. THE FOLLOWING ARE REPEALED [EFFECTIVE
36 UPON PASSAGE]: IC 3-6-4.5-1; IC 3-11-8-22.

37 SECTION 43. **An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 480, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 480 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Elections and Apportionment, to which was referred Senate Bill 480, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 2. IC 3-7-48-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) Except as otherwise provided by NVRA or in this chapter, a person whose name does not appear on the registration record may not vote **a regular official ballot**, unless the ~~circuit court clerk or board of county voter~~ registration **office** provides a signed certificate of error in the office where the permanent registration record is kept showing that the voter is legally registered in the precinct where the voter resides.

(b) ~~A person whose name does not appear on the registration record may~~ **If a person who is provided with a certificate of error under this section is then challenged under IC 3-10-1 or IC 3-11-8, the person must cast a provisional ballot as provided in IC 3-11.7: instead of a regular official ballot. The person may proceed to cast the provisional ballot after executing the affidavit required under IC 3-10-1 or IC 3-11-8.**

SECTION 3. IC 3-7-48-7.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 7.5. If a voter makes an oral or written affirmation under section 5 or 7 of this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a**

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provisional ballot under IC 3-11.7."

Page 2, line 32, delete ":".

Page 2, line 33, strike "(1)".

Page 2, line 33, after "vote" insert **"a regular official ballot"**.

Page 2, line 34, delete ";".

Page 2, line 34, strike "or" and insert **"in accordance with IC 3-7-48, showing that the voter is registered in the precinct where the voter resides and offers to vote, produces an affidavit executed under IC 3-10-11 if the voter executed an affidavit under that chapter, or makes an oral or written affirmation under IC 3-10-12. However, if the voter is then challenged under section 10.5 of this chapter, the voter must"**.

Page 2, line 35, strike "(2)".

Page 2, line 36, delete "15482." and insert **"15482 instead of a regular official ballot if the voter wishes to cast a ballot."**

Page 3, line 1, strike "is entitled to" and insert **"must"**.

Page 3, line 1, strike "under".

Page 3, line 2, strike "IC 3-11.7" and insert **"instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot"**.

Page 3, between lines 2 and 3, begin a new paragraph and insert:

"SECTION 6. IC 3-10-1-24.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.5. (a) This section does not apply to a precinct in a county with a computerized registration system whose inspector was:

(1) furnished with a list certified under IC 3-7-29; and

(2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote a regular official ballot, unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk executes a challenger's affidavit under this section, the voter must be provided with a provisional ballot instead of a regular official

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ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 10.5 of this chapter.

(d) If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21, or if the voter executes a challenged voter's affidavit under ~~IC 3-11-8-22~~, the voter may then vote a regular official ballot unless the voter was challenged under this chapter before signing the poll list.

~~(d)~~ (e) This section expires January 1, 2006.

SECTION 7. IC 3-10-1-24.6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24.6. (a) This section applies after December 31, 2005.

(b) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under section 7 of this chapter. If the board determines that the voter's signature is authentic, the voter may then vote a regular official ballot unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.

(c) If either poll clerk doubts the voter's identity following the comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by IC 3-11-8. If the poll clerk executes a challenger's affidavit under this section, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 10.5 of this chapter.

(d) If the poll clerk does not execute a challenger's affidavit under IC 3-11-8-21, or if the voter executes a challenged voter's affidavit under ~~IC 3-11-8-22~~, the voter may then vote a regular official ballot unless the voter was challenged under this chapter before signing the poll list.

SECTION 8. IC 3-10-10-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. If a voter executes an affidavit under this chapter and is then challenged under IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.

SECTION 9. IC 3-10-11-4.5 IS ADDED TO THE INDIANA CODE



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AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 4.5. If a voter executes an affidavit under this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The affidavit executed under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.**

SECTION 10. IC 3-10-12-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 5. If a voter makes an oral or written affirmation under this chapter and is then challenged under IC 3-10-1 or IC 3-11-8 as ineligible to vote in the precinct, the voter shall be provided with a provisional ballot under IC 3-11.7 rather than a regular official ballot. The oral or written affirmation made under this chapter serves as a sufficient affidavit for the voter to receive a provisional ballot under IC 3-11.7.**

SECTION 11. IC 3-11-1.5-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 18. (a) If the co-directors or designated employee election division determines that the proposed precinct establishment order would comply with this chapter, the co-directors shall advise the county executive that the co-directors will recommend that the commission approve the proposed order based on the order's compliance. The election division shall issue an order authorizing the county executive to establish the proposed precincts.**

(b) The order issued by the election division under subsection (a) must state that the election division finds that the proposed precincts would comply with the standards set forth in this chapter. The election division shall promptly provide a copy of the order to the county executive.

(c) The county executive must give notice of the proposed order to the voters of the county by one (1) publication under IC 5-3-1-4. The notice must state the following:

- (1) The name of each existing precinct whose boundaries would be changed by the adoption of the proposed order by the county.**
- (2) That any registered voter of the county may object to the proposed order by filing a sworn statement with the election division setting forth the voter's specific objections to the proposed order and requesting that a hearing be conducted by the commission under IC 4-21.5.**
- (3) The mailing address of the election division.**

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(4) The deadline for filing the objection with the election division under this section.

(d) An objection to a proposed precinct establishment order must be filed not later than noon ten (10) days after the publication of the notice by the county executive.

(e) If an objection is not filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may proceed immediately to adopt the proposed order.

(f) If an objection is filed with the election division by the date and time specified under subsection (d), the election division shall promptly notify the county executive. The county executive may not adopt the proposed order until the commission conducts a hearing under IC 4-21.5 and determines whether the proposed precincts would comply with the standards set forth in this chapter.

SECTION 12. IC 3-11-1.5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22. When a county executive receives a proposed order approved by:

(1) the election division; or

(2) the commission under section 18(f) of this chapter, the county executive may issue the order.

SECTION 13. IC 3-11-1.5-27 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 27. Not later than fourteen (14) days following notice of final approval of a precinct establishment order by the commission under section 18(f) of this chapter, the county executive shall give notice of the approval by one (1) publication under IC 5-3-1-4.

SECTION 14. IC 3-11-1.5-31 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 31. (a) This section applies to a proposed precinct establishment order that requires that a hearing by the commission be conducted under this chapter.

(b) After the ~~co-directors have~~ election division has reviewed the proposed precinct establishment order, and the order has been revised, if necessary, to comply with this chapter, the commission shall:

(1) approve a proposed precinct establishment order under this section ~~no~~ not later than the following January 31; and

(2) order that the precinct establishment order takes effect January 31 of the year in which the municipal election will be held."

Page 3, between lines 23 and 24, begin a new paragraph and insert:
"SECTION 15. IC 3-11-8-15 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) Only the following persons are permitted in the polls during an election:

- (1) Members of a precinct election board.
- (2) Poll clerks and assistant poll clerks.
- (3) Election sheriffs.
- (4) Deputy election commissioners.
- (5) Pollbook holders.
- (6) Watchers.
- (7) Voters for the purposes of voting.
- (8) Minor children accompanying voters as provided under IC 3-11-11-8 and IC 3-11-12-29.
- (9) An assistant to a precinct election officer appointed under IC 3-6-6-39.
- (10) An individual authorized to assist a voter in accordance with IC 3-11-9.
- (11) A member of a county election board, acting on behalf of the board.
- (12) A mechanic authorized to act on behalf of a county election board to repair a voting system (if the mechanic bears credentials signed by each member of the board).
- (13) Either of the following who have been issued credentials signed by the members of the county election board:
 - (A) The county chairman of a political party.
 - (B) The county vice chairman of a political party.
- (14) The secretary of state, as chief election officer of the state, unless the individual serving as secretary of state is a candidate for nomination or election to an office at the election.**

(b) This subsection applies to a simulated election for minors conducted with the authorization of the county election board. An individual participating in the simulated election may be in the polls for the purpose of voting. A person supervising the simulated election may be in the polls to perform the supervision.

(c) The inspector of a precinct has authority over all simulated election activities conducted under subsection (b) and shall ensure that the simulated election activities do not interfere with the election conducted in that polling place."

Page 4, line 3, strike "is entitled to" and insert "**must**".

Page 4, line 3, strike "under IC 3-11.7" and insert "**instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot**".

Page 4, line 30, after "vote" insert "**a regular official ballot**".

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Page 4, line 40, strike "under".

Page 4, line 41, strike "IC 3-11.7" and insert **"instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot"**.

Page 4, delete line 42, begin a new paragraph and insert:

"SECTION 19. IC 3-11-8-25, AS AMENDED BY SEA 483-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. (a) Except as provided in subsection (e), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(b) Except as provided in subsection (e), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

- (1) the voter is unable or declines to present the proof of identification; or
- (2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(e) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(f) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) The voter's current residence address.

(g) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) ask the voter to provide the voter's voter identification number;

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(2) tell the voter the number the voter may use as a voter identification number; and

(3) explain to the voter that the voter is not required to provide a voter identification number at the polls.

(h) The poll clerk or assistant poll clerk shall examine the list provided under IC 3-7-29-1 or IC 3-11-3-18 to determine if the county election board has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, in addition to the proof of identification required under subsection (b), a piece of identification described in subsection (i) to the poll clerk.

(i) As required by 42 U.S.C. 15483, in addition to the proof of identification required under subsection (b), a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

- (1) a current and valid photo identification; or
- (2) a current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(j) If a voter presents a document under subsection (i), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(k) If a voter required to present documentation under subsection (i) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11.7-2.

(l) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11.7.

(m) This subsection does not apply to a precinct in a county with a computerized registration system whose inspector was:

- (1) furnished with a list certified under IC 3-7-29; and
- (2) not furnished with a certified photocopy of the signature on the affidavit of registration of each voter of the precinct for the comparison of signatures under this section.

In case of doubt concerning a voter's identity, the precinct election

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board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot unless the voter is challenged by a poll clerk under this section or has been previously challenged under this chapter.** If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(n) If, in a precinct governed by subsection (m), the poll clerk executes a challenger's affidavit, the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 22 of this chapter.

~~(m)~~ **(o)** If, in a precinct governed by subsection (m),
~~(1) the poll clerk does not execute a challenger's affidavit, or~~
~~(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or had executed the affidavit before signing the poll list;~~

the voter may then vote **a regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(p)~~ **(p)** This section expires January 1, 2006.

SECTION 20. IC 3-11-8-25.1, AS AMENDED BY SEA 483-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.1. (a) This section applies after December 31, 2005.

(b) Except as provided in subsection (f), a voter who desires to vote an official ballot at an election shall provide proof of identification.

(c) Except as provided in subsection (f), before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(d) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(e) If the voter executes a challenged voter's affidavit under section

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22 of this chapter, the voter may:

- (1) sign the poll list; and
- (2) receive a provisional ballot.

(f) A voter who votes in person at a precinct polling place that is located at a state licensed care facility where the voter resides is not required to provide proof of identification before voting in an election.

(g) After a voter has passed the challengers or has been sworn in, the voter shall be instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The voter shall announce the voter's name to the poll clerks or assistant poll clerks. A poll clerk, an assistant poll clerk, or a member of the precinct election board shall require the voter to write the following on the poll list:

- (1) The voter's name.
- (2) Except as provided in subsection ~~(h)~~ (m), the voter's current residence address.

(h) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall:

- (1) ask the voter to provide or update the voter's voter identification number;
- (2) tell the voter the number the voter may use as a voter identification number; and
- (3) explain to the voter that the voter is not required to provide or update a voter identification number at the polls.

(i) The poll clerk, an assistant poll clerk, or a member of the precinct election board shall ask the voter to provide proof of identification.

(j) In case of doubt concerning a voter's identity, the precinct election board shall compare the voter's signature with the signature on the affidavit of registration or any certified copy of the signature provided under IC 3-7-29. If the board determines that the voter's signature is authentic, the voter may then vote **a regular official ballot unless the voter is challenged by a poll clerk under this section or was challenged under this chapter before signing the poll list.** If either poll clerk doubts the voter's identity following comparison of the signatures, the poll clerk shall challenge the voter in the manner prescribed by section 21 of this chapter.

(k) If, in a precinct governed by subsection (h), the poll clerk executes a challenger's affidavit, then the voter must be provided with a provisional ballot instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit

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under section 22 of this chapter.

~~(k)~~ (l) If, in a precinct governed by subsection (h):

~~(1) the poll clerk does not execute a challenger's affidavit or~~

~~(2) the voter executes a challenged voter's affidavit under section 22 of this chapter or executed the affidavit before signing the poll list;~~

the voter may then vote **a regular official ballot unless the voter was challenged under this chapter before signing the poll list.**

~~(j)~~ (m) Each line on a poll list sheet provided to take a voter's current address must include a box under the heading "Address Unchanged" so that a voter whose residence address shown on the poll list is the voter's current residence address may check the box instead of writing the voter's current residence address on the poll list."

Delete page 5.

Page 6, delete lines 1 through 28.

Page 6, line 33, strike "is entitled to" and insert "**must**".

Page 6, line 33, strike "under".

Page 6, line 34, strike "IC 3-11.7" and insert "**instead of a regular official ballot if the voter wishes to cast a ballot. The voter may then proceed to cast a provisional ballot**".

Page 10, line 39, strike "may" and insert "**must**".

Page 10, line 40, after "ballot" insert "**instead of a regular official ballot**".

Page 10, line 40, delete ":" and insert "**wishes to cast a ballot. The individual may then proceed to cast a provisional ballot if the individual:**".

Page 11, line 5, strike "may" and insert "**must**".

Page 11, line 5, delete "." and insert "**instead of a regular official ballot if the individual wishes to cast a ballot.**".

Page 11, delete lines 6 through 40, begin a new paragraph and insert:

"SECTION 29. IC 3-11.7-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) If the counters cannot agree whether to count a ballot following a protest under section 9 of this chapter, the question shall be referred to the county election board for a decision.

(b) **If both counters agree whether or not to count a ballot (either before or after a protest under section 9 of this chapter), the recommendation of the counting team shall be referred to the county election board. The county election board shall make the board's decision whether to count or not count the ballot in accordance with this title.**

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Page 14, delete lines 5 through 10, begin a new paragraph and insert:

"(e) Whenever the petitioner and each cross-petitioner or respondent file a joint motion to dismiss a recount or contest, the commission shall rule on the motion to dismiss before ordering or continuing with a recount or contest."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 480 as printed February 8, 2005.)

THOMAS, Chair

Committee Vote: yeas 6, nays 4.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 480 be amended to read as follows:

Page 8, delete lines 30 through 42, begin a new paragraph and insert:

"SECTION 17. IC 3-11-8-22.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 22.1. (a) This subsection applies to a voter:

- (1) whose name does not appear on the poll list for the precinct; and**
- (2) who produces a certificate of error issued under IC 3-7-48-1.**

If the voter is not challenged under IC 3-10-1 or this chapter, the voter must be provided with a regular official ballot. However, as provided by IC 3-7-48-1(b), if the voter is challenged under IC 3-10-1 or this chapter, the voter must cast a provisional ballot after complying with IC 3-7-48-1(b) if the voter wishes to cast a ballot.

(b) This subsection applies to a voter:

- (1) whose name does not appear on the poll list for the precinct; and**
- (2) who makes an oral or a written affirmation in compliance with IC 3-7-48-5 that the voter and continues to reside in the precinct at the address shown as the voter's former residence in the voter registration record.**



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If the voter is not challenged under IC 3-10-1 or this chapter, the voter must be provided with a regular official ballot. However, as provided by IC 3-7-48-7.5, if the voter is challenged under IC 3-10-1 or this chapter, the voter must cast a provisional ballot after complying with IC 3-7-48-7.5 if the voter wishes to cast a ballot.

(c) This subsection applies to a voter:

- (1) whose name does not appear on the poll list for the precinct; and
- (2) who produces a registration receipt that complies with IC 3-7-48-7.

If the county election board provides the precinct election board with the information required under IC 3-7-48-7(2), and the voter is not challenged under IC 3-10-1 or this chapter, the voter must be provided with a regular official ballot. However, as provided by IC 3-7-48-7.5, if the voter is challenged under IC 3-10-1 or this chapter, the voter must cast a provisional ballot after complying with IC 3-7-48-7.5 if the voter wishes to cast a ballot.

(d) This subsection applies to a voter:

- (1) whose name does not appear on the poll list for the precinct;
- (2) who is not described by subsection (a), (b), or (c).

After the voter is challenged under IC 3-10-1 or this chapter, the voter shall be provided with a provisional ballot under IC 3-11.7 instead of a regular official ballot if the voter wishes to cast a ballot. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 22 of this chapter if the voter wishes to cast a ballot.

(e) This subsection applies to a voter:

- (1) whose name appears on the poll list for the precinct; and
- (2) who no longer resides in the precinct, but is entitled to vote at the precinct under IC 3-10-10, IC 3-10-11, or IC 3-10-12.

If the voter executes an affidavit in compliance with IC 3-10-10, IC 3-10-11, or IC 3-10-12, and the voter is not challenged under IC 3-10-1 or this chapter, the voter must be provided with a regular official ballot. However, as provided by IC 3-10-10-9, IC 3-10-11-4.5, or IC 3-10-12-5, if the voter is challenged under IC 3-10-1 or this chapter, the voter must cast a provisional ballot if the voter wishes to cast a ballot.

(f) This subsection applies to a voter:

- (1) whose name appears on the poll list for the precinct;
- (2) who is not described in subsection (e).

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If the voter is challenged under IC 3-10-1 or this chapter, the voter shall be provided with a provisional ballot under IC 3-11.7 instead of a regular official ballot if the voter wishes to cast a vote. The voter may proceed to cast a provisional ballot after executing a challenged voter's affidavit under section 22 of this chapter if the voter wishes to cast a ballot."

Page 9, delete lines 1 through 12.

Page 9, line 14, after "23." insert **"(a) As provided by IC 3-7-48-7.5, IC 3-10-10-9, IC 3-10-11-4.5, and IC 3-10-12-5, if a challenged voter has already made an affirmation or executed an affidavit under any of those sections, the challenged voter is not required to execute an additional affidavit under this section.**

(b)".

Page 9, line 36, after "list" insert ",".

Page 9, line 36, strike "and the individual is not entitled to".

Page 9, line 37, strike "vote".

Page 9, line 37, delete "a regular official ballot".

Page 9, line 37, strike "under IC 3-7-48-1, IC 3-7-48-5,".

Page 9, line 38, strike "IC 3-7-48-7, IC 3-10-10, IC 3-10-11-2, or IC 3-10-12,".

Page 18, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 30. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. (a) If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. In all other respects, the challenge procedure is the same as though the ballot was cast by the voter in person.

(b) If a proper affidavit by a qualified person in the form required by ~~IC 3-11-8-22~~ IC 3-11-8-22.1 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

(c) The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter."

Page 18, line 14, strike "not permitted to vote" and insert **"challenged under IC 3-10-1 or IC 3-11-8 after the voter makes an oral or a written affirmation under IC 3-7-48-5 or IC 3-7-48-7, or after the voter produces a certificate of error"**.

Page 18, line 14, delete "," and insert ".".

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Page 18, strike lines 15 through 16.

Page 22, line 42, delete "IC 3-6-4.5-1 IS" and insert "THE FOLLOWING ARE"

Page 23, line 1, delete "." and insert ": IC 3-6-4.5-1; IC 3-11-8-22.".

Re-number all SECTIONS consecutively.

(Reference is to ESB 480 as printed April 5, 2005.)

MURPHY

HOUSE MOTION

Mr. Speaker: I move that Engrossed House Bill 480 be amended to read as follows:

Page 19, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 31. IC 3-11.7-5-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.5. A provisional ballot that has been marked and cast by a voter in compliance with this title but may not otherwise be counted solely as the result of the act or failure to act of an election officer shall nevertheless be counted unless evidence of fraud, tampering, or misconduct affecting the integrity of the ballot is demonstrated. The act or failure to act by an election officer is not by itself evidence of fraud, tampering, or misconduct affecting the integrity of the ballot.**"

Re-number all SECTIONS consecutively.

(Reference is to ESB 480 as printed April 5, 2005.)

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